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HOUSE BILL 1394

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State of Washington                      53rd Legislature                      1993 Regular Session

By Representatives R. Fisher, R. Meyers, Pruitt, Campbell and Jacobsen

Read first time 01/27/93. Referred to Committee on Transportation.

1            AN ACT Relating to enforcement of high-occupancy vehicle lane  
2 violations; amending RCW 46.61.165, 46.52.130, and 46.65.020; adding a  
3 new section to chapter 46.90 RCW; and prescribing penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5            **Sec. 1.** RCW 46.61.165 and 1991 sp.s. c 15 s 67 are each amended to  
6 read as follows:

7            The state department of transportation and the local authorities  
8 are authorized to reserve all or any portion of any highway under their  
9 respective jurisdictions, including any designated lane or ramp, for  
10 the exclusive or preferential use of public transportation vehicles or  
11 private motor vehicles carrying no fewer than a specified number of  
12 passengers when such limitation will increase the efficient utilization  
13 of the highway or will aid in the conservation of energy resources.  
14 There is hereby appropriated from the transportation fund--state to the  
15 department of transportation, program C for the period ending June 30,  
16 1993, an additional \$15 million for the sole purpose of expediting  
17 completion of the HOV core lane system. Regulations authorizing such  
18 exclusive or preferential use of a highway facility may be declared to  
19 be effective at all times or at specified times of day or on specified

1 days. The (~~department shall evaluate the efficacy of the vehicle~~  
2 ~~occupancy requirements and shall report to the legislative~~  
3 ~~transportation committee by January 1, 1992~~) base penalty for improper  
4 use of the designated lanes or ramps which occurs more than one-half  
5 mile from a freeway entrance or exit is twenty-five dollars for the  
6 first offense within five years, seventy dollars for the second offense  
7 within five years, and two hundred fifty dollars for a third or  
8 subsequent offense within five years. Impeding traffic in designated  
9 lanes is declared to be an improper use of such lanes and is subject to  
10 the penalties provided in this section.

11 NEW SECTION. **Sec. 2.** A new section is added to chapter 46.90 RCW  
12 to read as follows:

13 In a prosecution charging a violation of RCW 46.61.165, proof must  
14 be shown by a law enforcement officer that a particular vehicle  
15 described in the complaint was operated in violation of RCW 46.61.165.  
16 The proof must be supported by a law enforcement officer having plain  
17 view of the interior of the vehicle described in the complaint. When  
18 making the sighting, the officer must not be at a distance farther than  
19 the adjoining traffic lane. This proof, together with proof that the  
20 defendant named in the complaint was the registered owner at the time  
21 of the violation, is prima facie evidence that the registered owner of  
22 the vehicle was the person who operated the vehicle at the time the  
23 violation occurred.

24 **Sec. 3.** RCW 46.52.130 and 1991 c 243 s 1 are each amended to read  
25 as follows:

26 A certified abstract of the driving record shall be furnished only  
27 to the individual named in the abstract, an employer, the insurance  
28 carrier that has insurance in effect covering the employer or a  
29 prospective employer, the insurance carrier that has insurance in  
30 effect covering the named individual, the insurance carrier to which  
31 the named individual has applied, or an alcohol/drug assessment or  
32 treatment agency approved by the department of social and health  
33 services, to which the named individual has applied or been assigned  
34 for evaluation or treatment. City attorneys and county prosecuting  
35 attorneys may provide the driving record to alcohol/drug assessment or  
36 treatment agencies approved by the department of social and health  
37 services to which the named individual has applied or been assigned for

1 evaluation or treatment. The director, upon proper request, shall  
2 furnish a certified abstract covering the period of not more than the  
3 last three years to insurance companies, and covering a period of not  
4 more than the last five years to state approved alcohol/drug assessment  
5 or treatment agencies. A certified abstract of the full driving record  
6 maintained by the department shall be furnished to individuals and  
7 employers or prospective employers. The abstract, whenever possible,  
8 shall include an enumeration of motor vehicle accidents in which the  
9 person was driving; the total number of vehicles involved; whether the  
10 vehicles were legally parked or moving; whether the vehicles were  
11 occupied at the time of the accident; any reported convictions,  
12 forfeitures of bail, or findings that an infraction was committed based  
13 upon a violation of any motor vehicle law; and the status of the  
14 person's driving privilege in this state. The enumeration shall  
15 include any reports of failure to appear in response to a traffic  
16 citation or failure to respond to a notice of infraction served upon  
17 the named individual by an arresting officer.

18 The abstract provided to the insurance company shall exclude any  
19 information except that related to the commission of misdemeanors or  
20 felonies by the individual pertaining to law enforcement officers or  
21 fire fighters as defined in RCW 41.26.030, or any officer of the  
22 Washington state patrol, while driving official vehicles in the  
23 performance of occupational duty or pertaining to improper use of a  
24 designated high-occupancy vehicle lane or ramp under RCW 46.61.165.

25 The director shall collect for each abstract the sum of four  
26 dollars and fifty cents which shall be deposited in the highway safety  
27 fund.

28 Any insurance company or its agent receiving the certified abstract  
29 shall use it exclusively for its own underwriting purposes and shall  
30 not divulge any of the information contained in it to a third party.  
31 No policy of insurance may be canceled, nonrenewed, denied, or have the  
32 rate increased on the basis of such information unless the policyholder  
33 was determined to be at fault. No insurance company or its agent for  
34 underwriting purposes relating to the operation of commercial motor  
35 vehicles may use any information contained in the abstract relative to  
36 any person's operation of motor vehicles while not engaged in such  
37 employment, nor may any insurance company or its agent for underwriting  
38 purposes relating to the operation of noncommercial motor vehicles use

1 any information contained in the abstract relative to any person's  
2 operation of commercial motor vehicles.

3 Any employer or prospective employer receiving the certified  
4 abstract shall use it exclusively for his own purpose to determine  
5 whether the licensee should be permitted to operate a commercial  
6 vehicle or school bus upon the public highways of this state and shall  
7 not divulge any information contained in it to a third party.

8 Any alcohol/drug assessment or treatment agency approved by the  
9 department of social and health services receiving the certified  
10 abstract shall use it exclusively for the purpose of assisting its  
11 employees in making a determination as to what level of treatment, if  
12 any, is appropriate. The agency, or any of its employees, shall not  
13 divulge any information contained in the abstract to a third party.

14 Any violation of this section is a gross misdemeanor.

15 **Sec. 4.** RCW 46.65.020 and 1991 c 293 s 7 are each amended to read  
16 as follows:

17 As used in this chapter, unless a different meaning is plainly  
18 required by the context, an habitual offender means any person,  
19 resident or nonresident, who has accumulated convictions or findings  
20 that the person committed a traffic infraction as defined in RCW  
21 46.20.270, or, if a minor, has violations recorded with the department  
22 of licensing, for separate and distinct offenses as described in either  
23 subsection (1) or (2) below committed within a five-year period, as  
24 evidenced by the records maintained in the department of licensing:  
25 PROVIDED, That where more than one described offense is committed  
26 within a six-hour period such multiple offenses shall, on the first  
27 such occasion, be treated as one offense for the purposes of this  
28 chapter:

29 (1) Three or more convictions, singularly or in combination, of the  
30 following offenses:

31 (a) Vehicular homicide as defined in RCW 46.61.520;

32 (b) Vehicular assault as defined in RCW 46.61.522;

33 (c) Driving or operating a motor vehicle while under the influence  
34 of intoxicants or drugs;

35 (d) Driving a motor vehicle while his or her license, permit, or  
36 privilege to drive has been suspended or revoked as defined in RCW  
37 46.20.342(1)(b);

1 (e) Failure of the driver of any vehicle involved in an accident  
2 resulting in the injury or death of any person or damage to any vehicle  
3 which is driven or attended by any person to immediately stop such  
4 vehicle at the scene of such accident or as close thereto as possible  
5 and to forthwith return to and in every event remain at, the scene of  
6 such accident until he has fulfilled the requirements of RCW 46.52.020;

7 (f) Reckless driving as defined in RCW 46.61.500;

8 (g) Being in physical control of a motor vehicle while under the  
9 influence of intoxicating liquor or any drug as defined in RCW  
10 46.61.504; or

11 (h) Attempting to elude a pursuing police vehicle as defined in RCW  
12 46.61.024;

13 (2) Twenty or more convictions or findings that the person  
14 committed a traffic infraction for separate and distinct offenses,  
15 singularly or in combination, in the operation of a motor vehicle that  
16 are required to be reported to the department of licensing other than  
17 the offenses of driving with an expired driver's license ((and)), not  
18 having a driver's license in the operator's immediate possession, and  
19 improper use of a designated high-occupancy vehicle lane or ramp under  
20 RCW 46.61.165. Such convictions or findings shall include those for  
21 offenses enumerated in subsection (1) of this section when taken with  
22 and added to those offenses described herein but shall not include  
23 convictions or findings for any nonmoving violation. No person may be  
24 considered an habitual offender under this subsection unless at least  
25 three convictions have occurred within the three hundred sixty-five  
26 days immediately preceding the last conviction.

27 The offenses included in subsections (1) and (2) of this section  
28 are deemed to include offenses under any valid town, city, or county  
29 ordinance substantially conforming to the provisions cited in  
30 subsections (1) and (2) or amendments thereto, and any federal law, or  
31 any law of another state, including subdivisions thereof, substantially  
32 conforming to the aforesaid state statutory provisions.

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